

State of California
Department of Insurance
45 Fremont Street, 21st Floor
San Francisco, California 94105

FINAL STATEMENT OF REASONS

**File No. RH-396
October 9, 2001**

RENTAL CAR AGENT LICENSING

THE FOLLOWING AMENDMENTS ARE THE ONLY CHANGES TO THE INFORMATION
THAT WAS PRESENTED IN THE INITIAL STATEMENT OF REASONS:

Section 2130.6. Records.

Section 2130.6(c) has been amended to additionally provide that records may be requested by the Commissioner in electronic and/or written format.

The subsection also includes a note that the e-mail and regular mailing addresses to which the records must be sent will be available from the Department of Insurance by phone, in writing, and on the Department's website.

Section 2130.7. Forms.

Section 2130.7(f) has been amended to additionally require the list of authorized endorsees to be maintained in a format that can be transmitted to the Commissioner electronically and in hard copy or diskette, in commercial word-processing or spreadsheet form, however the Commissioner may request it, and to be updated to include new endorsees, with authorization start and stop dates, if requested.

NO MATERIAL OTHER THAN THAT PRESENTED IN THE INITIAL STATEMENT OF
REASONS HAS BEEN RELIED UPON BY THE DEPARTMENT OF INSURANCE.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Department has made a determination that adoption, amendment or repeal of the regulation does not impose a mandate on local agencies or school districts. The regulation has nothing to do with local agencies or school districts; it neither requires nor prohibits action on their part.

SUMMARY OF AND RESPONSE TO OBJECTIONS OR RECOMMENDATIONS

Comment No. 1

Commentator: James J. Lichter, Analyst, Regulation Review Unit, California Technology,
Trade and Commerce Agency

Date: April 12, 2001

Type of Comment: Written

Summary of Comment: In the Notice contained in the California Regulatory Notice Register 2001, the Department states, “The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action *and that is [sic] not required by statute.*” (Italics and [sic] in original.) Not only is the addition ungrammatical, it also is unauthorized under Government Code, section 11346.5(a)(9).

Response to Comment: The comment has some merit. Indeed, the added language is ungrammatical and should have read “. . . and that are not required by statute.” Although a statement of this type is not expressly permitted in Government Code, section 11346.5(a)(9), that section does not prohibit the addition of relevant statements.

Summary of Comment: The STD. 399 Form states that there is no economic impact imposed by the proposed action. However, the proposed action does impose costs that a representative private person or business would incur as follows:

- license fees;
- costs of preparing training materials and of training endorsees at least every two years;
- costs of maintaining records for at least three years;
- costs associated with preparing and filing forms.

Response to Comment: The license fees have been imposed by the legislature in AB 62, presumably after careful deliberation and consideration by the author(s) and by legislative committees as to content and costs. The proposed action implements, interprets and makes specific the statutes enacted through that legislation, Insurance Code, sections 1758.8-1758.891.

As to the other enumerated items, it can be presumed that businesses, in the ordinary course of their business, train their employees, maintain records and do paper work.

Summary of Comment: Although the STD. 399 Form states that the proposed action has no fiscal impact on the Department, the Initial Statement of Reasons states otherwise. Moreover, the Department has failed to estimate costs for “enforcement actions or investigations that are expected to occur.”

Response to Comment: The comment has some merit. There is a fiscal impact on the Department. An amended STD. 399 Form will be made part of the rulemaking file and will go to the Department of Finance for approval.

Summary of Comment: Regulated parties are likely to be confused by the Notice in the California Regulatory Notice Register, in that

- (1) they may not understand that every state agency must have legal authority to impose costs, as well as to adopt, amend or repeal a regulation; and
- (2) they may not realize that while the legislation authorizes the Department to levy a license fee, the proposed amount and other requirements were developed by the Department.

Response to Comment: The comment is rejected. Included in the Notice is an Informative Digest / Policy Statement Overview that quite clearly attributes the authority for imposing costs, etc. Also included is the delegation by the Legislature to the Department to determine the appropriate amount and other requirements.

Comment No. 2

Commentator: Tom Tollisom, U-Haul Company of California

Date: April 24, 2001

Type of Comment: Oral

Summary of Comment: U-Haul is different from rental car companies such as Hertz. While the trucks U-Haul rents fit the definition of “rental vehicle,” U-Haul’s product is a “protection package” that is sold for \$.75 and does not involve agent commissions. Therefore, it really is not insurance. U-Haul should be considered outside the scope of these regulations.

Response to Comment: U-Haul sells an insurance product with its rentals. Several other rental vehicle companies also proposed in pre-notice discussions that they should be exempted from the new license requirement. That is a matter for the legislature to consider, not the Insurance Commissioner, who is required by statute to promulgate regulations implementing the legislation.

No comments were submitted by the Office of Small Business Advocate.

ALTERNATIVES

The Department has determined that no alternative considered by the agency would be more effective in carrying out the purpose for which the regulation is proposed, or would be as effective and less burdensome to affected private persons than the adopted regulation. In support of this statement, no alternative was proposed, identified or brought to the attention of the agency during the public comment period. No proposed alternatives were rejected that would lessen the adverse economic impact on small businesses.

DOCUMENTS INCORPORATED BY REFERENCE

The forms incorporated by reference in Section 2130.7 of the text of regulations are available upon request and on the Department’s website, as set forth in Section 2130.7(g). Publication of the incorporated documents in full in the California Code of Regulations would be cumbersome, unduly expensive, and otherwise impractical in that they all are readily available as set forth above.